

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,
v. Case No. 21-cr-0198

ALEX MOMPREMIER,

Defendant.

ORDER

Defendant Alex Mompremier challenges Magistrate Judge William E. Duffin's Report and Recommendation that Mompremier's renewed motion to dismiss the superseding indictment against him or alternatively to transfer venue of the case be denied. (ECF No. 42.) Because the magistrate judge correctly rejected the renewed motion, the Court will adopt Judge Duffin's latest Report and Recommendation and deny Mompremier's renewed motion.

BACKGROUND

On September 28, 2021, a grand jury returned a four-count indictment against Mompremier and four codefendants. (ECF No. 1.) Mompremier was charged in three counts. (*Id.*) Count One charged him with conspiring others to distribute 5 kilograms or more of cocaine, intending, knowing, or having reasonable cause to believe that the cocaine would be unlawfully imported into the United States in violation of 21 U.S.C. §§963, 959(a) and 960(b)(1)(B). (*Id.* at 1.) In Count Two, Mompremier was charged with distributing 5 kilograms or more of cocaine, intending, knowing, or having reasonable cause to believe that the cocaine would be unlawfully imported into the United States, in violation of 21 U.S.C. §§959(a) and 960(b)(1)(B), and 18 U.S.C. §2. (*Id.* at 3.) Count Four alleged he carried firearms during and in relation to the drug trafficking crimes described in Counts One and Two, in violation of 18 U.S.C. §§924(c)(1)(A)(i) and (2). (*Id.* at 5.) All three offenses were alleged to have "begun outside the jurisdiction of any particular State or district of the United States." (*Id.* at 1, 3, 5.)

Six months after the indictment, on March 29, 2022, the Haitian National Police arrested Mompremier in Haiti. (ECF No. 26 at 2.) Two months after that, on May 9, 2022, he was brought

to this district to face prosecution. (*Id.*) Mompremier moved to dismiss the original indictment, insisting that his arrest was illegal because it violated the extradition treaty between the United States and Haiti and constituted outrageous governmental conduct. (ECF. No. 24 at 5-9). Mompremier also argued that 18 U.S.C. §924(c) “does not apply abroad.” (*Id.* at 10.) In the alternative, Mompremier argued that under 18 U.S.C. §3238, venue should be transferred to the District of Columbia or to the District of Puerto Rico. (*Id.* at 16-21.) The motion was briefed by the parties and on July 28, 2022, Magistrate Judge William E. Duffin filed a Report and Recommendation with this Court, recommending that the motion be denied. (ECF No. 29.) Mompremier objected to the report, (ECF No. 31), but on September 30, 2022, the Court overruled those objections and adopted Judge Duffin’s Report and Recommendation. (ECF No. 34.)

On November 8, 2022, the Government filed a superseding indictment. The charges against Mompremier remained essentially the same. (ECF No. 39.) Mompremier nonetheless renewed his motion to dismiss or in the alternative to transfer venue. (ECF No. 42.) In his motion, Mompremier acknowledges that he was renewing the motion in an abundance of caution to preserve the issue for appeal. (*Id.* at 2.) On February 17, 2023, Judge Duffin recommended denying Mompremier’s renewed motion for the same reasons stated in his prior report. (ECF Nos. 62 & 63.) Mompremier has since objected to the February 17 report, (ECF No. 64), and the government incorporated, in their entirety, the arguments and conclusions expressed in its responses to Mompremier’s earlier objections. (ECF Nos. 26, 32, 62.)

On September 12, 2022, prior to the return of the superseding indictment, Mompremier filed a motion to compel discovery. (ECF No. 33.) Judge Duffin granted that motion when the government failed to file any objections to the motion. (ECF Nos. 62 & 63.) The government filed a motion for extension of time to file responses to the motion to compel and requested that Judge Duffin’s decision be vacated. (ECF No. 65.) On February 21, 2023, Judge Duffin granted the government’s motion and vacated its order granting the motion to compel. (ECF No. 66.) The parties briefed the motion to compel and on March 15, 2023, Judge Duffin issued an order denying Mompremier’s motion. (ECF No. 72.) On March 21, 2023, Mompremier appealed the denial of his motion, (ECF No. 74), and on March 24, 2023, the government filed a response in opposition to Mompremier’s appeal. (ECF No. 75.) At a status conference held on April 4, 2023, the parties confirmed that no further briefing would be filed on either motion. (ECF No. 83.)

STANDARD OF REVIEW

When reviewing a magistrate judge’s recommendation, the district judge must review *de novo* the recommendations of the magistrate judge to which a party timely objects. 28 U.S.C. §636(b)(1); Fed. R. Crim. P. 59(b)(2), (3). The court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. §636(b)(1). When reviewing a magistrate judge’s order addressing a non-dispositive pretrial motion, the Court will only set aside that portion of the order that is found to be clearly erroneous or contrary to law. *See* 28 U.S.C. §636(b)(1)(A); Fed. R. Crim P. 59(a).

ANALYSIS

As previously noted, the Court has already addressed the substantive challenges raised in Mompremier’s latest motion to dismiss or transfer. On September 30, 2023, the Court overruled Mompremier’s objections to Judge Duffin’s prior Report and Recommendation on his first motion to dismiss. (ECF No. 34.) Mompremier concedes that he makes the same arguments in his November 15, 2022 renewed motion and is moving out of “an abundance of caution to both ensure that the record is protected for appellate review and to provide the Defendant with effective assistance of counsel.” (ECF No. 42 at 2.) Judge Duffin recommended that the renewed motion be denied for the same reasons as the initial motion. (*See* ECF No. 62 (citing ECF No. 34 (overruling defendant’s objections (ECF No. 31) and accepting the Report and Recommendation of the Magistrate Judge (ECF No. 29.).)) Mompremier filed objections, incorporating his previous pleadings. (ECF No. 64 (citing ECF Nos. 24 & 27).) The government incorporated, in their entirety, the arguments and conclusions expressed in its responses. (ECF No. 70 (citing ECF Nos. 26 & 32).) For the reasons expressed in its Order overruling Defendant’s objections and adopting the Report and Recommendation of Judge Duffin, (ECF No. 34), Court again overrules Mompremier’s objections (ECF No. 64) and adopts the Recommendation of Judge Duffin. (ECF No. 62 & 63.) Mompremier’s motion to dismiss or in the alternative to transfer venue, (ECF No. 42), is denied.

CONCLUSION

Accordingly, the Court **OVERRULES** the Defendant’s objections to Judge Duffin’s Recommendation (ECF No. 64) and **ADOPTS** the Recommendation of Judge Duffin. (ECF No. 62.)

IT IS ORDERED that the Defendant's Motion to Dismiss the Superseding Indictment or in the Alternative to Transfer Venue (ECF No. 42) is **DENIED**.

Dated at Milwaukee, Wisconsin on May 17, 2023.

s/ Brett H. Ludwig

BRETT H. LUDWIG
United States District Judge